

***IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York***

November 2008 GRAND JURY
(Empaneled 11/7/2008)

THE UNITED STATES OF AMERICA

-vs-

MARCELINO FERNANDEZ a/k/a “Chulin”

(Counts 1-5 , 7 -19, 21, 22),

JAVIER CASTILLO (Counts 1, 6, 15, 21),

CHRISTIAN CASTILLO (Counts 1, 7, 21),

CARLOS MARTINEZ (Counts 1, 7, 18, 21),

ALEX FERNANDEZ (Counts 1, 10, 21),

SUSANA RIVERA (Counts 1, 8, 9, 21, 22),

LARRY SCISSON (Counts 1, 11, 21),

DARNELL COFFMAN (Counts 1, 12, 21),

ONDRA Y DONALDSON (Counts 1, 14, 21),

FRANCISCO SANTIAGO (Counts 1, 13, 21),

CHRISTOPHER HOFFMAN (Counts 1, 16, 21),

GAMALIEL LINARES (Counts 1, 17, 21),

GENESIS TORIBIO (Counts 1, 7, 21),

LUIS BRITO-REINOSO (Counts 1, 7, 20, 21),

JUSTIN JOHNS (Counts 1, 19, 21), and

ARTHUR CLARK (Counts 1, 7, 21)

**SUPERSEDING
INDICTMENT
09-CR-142-S**

Violations:

Title 21, United States Code,
Sections 841(a)(1), 843(b),
846 & 856(a)(1);
Title 18, United States Code,
Sections 2, 911 & 924(c)(1).

COUNT 1

The Grand Jury Charges:

Beginning in or before February 2009, the exact date being unknown, and continuing to on or about May 5, 2009, in the Western District of New York, and elsewhere, the defendants, **MARCELINO FERNANDEZ a/k/a "Chulin", JAVIER CASTILLO, CHRISTIAN CASTILLO, CARLOS MARTINEZ, ALEX FERNANDEZ, SUSANA RIVERA, LARRY SCISSON, DARNELL COFFMAN, ONDRAY DONALDSON, FRANCISCO SANTIAGO, CHRISTOPHER HOFFMAN, GAMALIEL LINARES, GENESIS TORIBIO, LUIS BRITO-REINOSO, JUSTIN JOHNS and ARTHUR CLARK**, did knowingly, willfully and unlawfully combine, conspire and agree together and with others, known and unknown, to commit offenses against the United States, that is, to possess with intent to distribute, and to distribute, one (1) kilogram or more of a mixture and substance containing heroin, a Schedule I controlled substance, and 500 grams or more of a mixture and substance containing cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A) and 841(b)(1)(B).

All in violation of Title 21, United States Code, Section 846.

COUNT 2

The Grand Jury Further Charges:

On or about December 10, 2008, in the Western District of New York, the defendant, **MARCELINO FERNANDEZ a/k/a "Chulin"**, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a mixture and substance containing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 3

The Grand Jury Further Charges:

On or about January 9, 2009, in the Western District of New York, the defendant, **MARCELINO FERNANDEZ a/k/a "Chulin"**, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a mixture and substance containing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 4

The Grand Jury Further Charges:

On or about February 25, 2009, in the Western District of New York, the defendant, **MARCELINO FERNANDEZ a/k/a "Chulin"**, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a mixture and substance containing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 5

The Grand Jury Further Charges:

On or about April 2, 2009, in the Western District of New York, the defendant, **MARCELINO FERNANDEZ a/k/a "Chulin"**, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a mixture and substance containing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 6

The Grand Jury Further Charges:

On or about April 29, 2009, in the Western District of New York, the defendant, **JAVIER CASTILLO**, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a mixture and substance containing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 7

The Grand Jury Further Charges:

Between in or about February 2009, the exact date being unknown, and on or about May 5, 2009, in the Western District of New York, the defendants, **MARCELINO FERNANDEZ a/k/a "Chulin", CHRISTIAN CASTILLO, CARLOS MARTINEZ, GENESIS TORIBIO, LUIS BRITO-REINOSA and ARTHUR CLARK**, did knowingly and intentionally use and maintain a place, that is, the premises at 30 Malsch Street, Buffalo, New York, for the purpose of unlawfully manufacturing and distributing heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.

COUNT 8

The Grand Jury Further Charges:

Between in or about February 2009, the exact date being unknown, and on or about May 5, 2009, in the Western District of New York, the defendants, **MARCELINO FERNANDEZ a/k/a "Chulin" and SUSANA RIVERA**, did knowingly and intentionally use and maintain a place, that is, the premises at 17 Philadelphia Street, Buffalo, New York, for the purpose of unlawfully manufacturing and distributing heroin, a Schedule I controlled substance, and cocaine, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.

COUNT 9

The Grand Jury Further Charges:

Between in or about February 2009, the exact date being unknown, and on or about May 5, 2009, in the Western District of New York, the defendants, **MARCELINO FERNANDEZ a/k/a "Chulin" and SUSANA RIVERA**, did knowingly and unlawfully possess firearms and machineguns, namely, an UZI Model 320, 9 mm machinegun, serial number MSA10517; and a Sten 9 mm machinegun, serial number 88831, in furtherance of drug trafficking crimes for which they may be prosecuted in a court of the United States, that is, violations of Title 21, United States Code, Sections 846 and 856(a)(1), as set

forth in Counts 1 and 8 of this Indictment, the allegations of which are incorporated herein by reference.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A), 924(c)(1)(B)(ii) and 2.

COUNTS 10-19

The Grand Jury Further Charges:

On or about the dates listed below, in the Western District of New York, and elsewhere, at or about the times listed below, the defendants listed below did knowingly, intentionally and unlawfully use a communication facility, that is, a telephone, in committing, causing and facilitating the commission of acts constituting felonies under Title 21, United States Code, Sections 841(a) and 846, that is, the possession with intent to distribute and the distribution of controlled substances, and conspiracy to do so:

<u>COUNT</u>	<u>DEFENDANTS</u>	<u>DATES AND TIMES</u>
10	MARCELINO FERNANDEZ a/k/a "Chulin" and ALEX FERNANDEZ	April 21, 2009 at 10:46 p.m.
11	MARCELINO FERNANDEZ a/k/a "Chulin" and LARRY SCISSON	March 16, 2009 at 9:16 p.m.
12	MARCELINO FERNANDEZ a/k/a "Chulin" and DARNELL COFFMAN	March 24, 2009 at 5:22 p.m.
13	MARCELINO FERNANDEZ a/k/a "Chulin" and FRANCISCO SANTIAGO	March 21, 2009 at 7:16 p.m.

14	MARCELINO FERNANDEZ a/k/a "Chulin" and ONDRAY DONALDSON	March 13, 2009 at 7:57 p.m.
15	MARCELINO FERNANDEZ a/k/a "Chulin" and JAVIER CASTILLO	March 27, 2009 at 10:35 p.m.
16	MARCELINO FERNANDEZ a/k/a "Chulin" and CHRISTOPHER HOFFMAN	April 3, 2009 at 8:09 p.m.
17	MARCELINO FERNANDEZ a/k/a "Chulin" and GAMALIEL LINARES	March 22, 2009 at 5:28 p.m.
18	MARCELINO FERNANDEZ a/k/a "Chulin" and CARLOS MARTINEZ	April 26, 2009 at 10:34 p.m.
19	MARCELINO FERNANDEZ a/k/a "Chulin" and JUSTIN JOHNS	April 26, 2009 at 11:07 p.m.

All in violation of Title 21, United States Code, Section 843(b).

COUNT 20

The Grand Jury Further Charges:

On or about April 1, 2009, in the Western District of New York, the defendant, **LUIS BRITO-REINOSO**, a citizen of the Dominican Republic and therefore an alien person in the United States, did falsely and willfully represent himself to be a citizen of the United States.

All in violation of Title 18, United States Code, Section 911.

COUNT 21

**The Grand Jury Further Charges:
(Forfeiture Allegation)**

Upon the conviction of any defendant on any of Counts 1 through 8, or Counts 10 through 19 of the Indictment, said defendant will forfeit all of the defendant's right, title and interest in any property constituting or derived from proceeds or property used or intended to be used, in any manner or part, to commit or facilitate the commission of such offense, including but not limited to the following:

\$78,450.00 in United States Currency

All pursuant to Title 21, United States Code, Sections 853(a)(1) and 853(a)(2).

COUNT 22

**The Grand Jury Further Charges:
(Forfeiture Allegation)**

Upon conviction of the offenses set forth in Counts 1 through 5, or Counts 7 through 19 of the Indictment, the defendants, **MARCELINO FERNANDEZ a/k/a "Chulin" and SUSANA RIVERA**, shall forfeit to the United States any firearms and ammunition involved or used in the commission of the offense, or found in the possession or under the immediate control of the defendants at the time of arrest including, but not limited to:

- a. An UZI Model 320, 9 mm machinegun, serial number MSA10517; and
- b. A Sten 9 mm machinegun, serial number 88831.

All pursuant to the provisions of Title 18, United States Code, Sections 924(d) and 3665, Title 26, United States Code, Section 5872(a), and Title 28, United States Code, Section 2461(c).

Dated: Buffalo, New York, May 12, 2009.

KATHLEEN M. MEHLTRETTER
Acting United States Attorney

BY: S/WILLIAM J. GILLMEISTER
WILLIAM J. GILLMEISTER
Assistant U.S. Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
(716) 843-5700, ext. 875
William.J.Gillmeister@usdoj.gov

A TRUE BILL:

S/FOREPERSON
FOREPERSON